

Workers' Compensation Training Perspectives

Newsletter from the Office of Monitoring, Audit and Enforcement

Maine Workers' Compensation Board

October 2014

Volume 1, Number 2



Paul H. Sighinolfi
Executive Director/Chair

Office of Monitoring,
Audit and Enforcement

Maine Workers'
Compensation Board

27 State House Station

Augusta, Maine 04333

Contacts:

Gordon Davis
Director of Audits
Training Coordinator
(207) 287-6327

E-mail
Gordon.Davis@Maine.Gov

Anne Poulin
Secretary Associate
(207) 287-7067

E-mail
Anne.Poulin@Maine.Gov

Website:
www.maine.gov/wcb/

The general mission of the Maine Workers' Compensation Board is to serve the employees and employers of the State fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.

Compliance Training for Employers/Insurers

The last open training session for 2014 will be held October 23-24, and is full with a waiting list. Open training sessions for 2015 have been scheduled for January 29-30, April 23-24, June 25-26, and October 29-30, all held at the Maine Department of Labor, 45 Commerce Drive in Augusta. Please contact Anne Poulin to reserve a spot at any of these sessions.

The Board also continues to be busy doing on-site training for insurers, self-insurers, and third party administrators. If you would like information about on-site training for your organization, please contact Gordon Davis.

Training modules are also available on the Board's website: www.maine.gov/wcb/ (Click on "Training Modules" on the right side of the home page.)

Topic of the Month – Specific Losses

Section 212(3) of the Act spells out specific loss benefits in the event of the loss of a scheduled body part, such as an eye, hand, foot, finger, toe, etc. The incapacity is considered to continue from the loss of the body part to the end of the specified period. For example, assume the employee injured his hand at work and went out on TTD, and four weeks later had his index finger amputated as a result of that injury. Six weeks following the amputation, he/she returned to work full duty. The specific loss period would begin at the date of the amputation (not the date of injury) and continue for the specified period (38 weeks), even though he/she returned to work within the 38-week period. If he/she was then taken out of work after the 38-week period for that same injury, it would be treated as a new period of incapacity, with no offset for the earnings or benefits he/she had within that 38 weeks. If the employee did not return to work within the specific loss period, a WCB-4 Modification should be filed to change from specific loss benefits to weekly compensation at the expiration of the 38 weeks.

Forms Forum – WCB-2B, Fringe Benefits Worksheet

The newest Board form is the Fringe Benefits Worksheet, which is required for all injuries which become compensable on or after January 1, 2013. Although the form is new, the rule has not changed - if the employee is provided fringe benefits, if and when those benefits cease being paid by the employer, the employer/insurer must recalculate the AWW to include the lost fringes. An amended WCB-2 Wage Statement must be filed with the Board if it results in increased compensation to the employee (Rule 1.5.2.B). The purpose of the WCB-2B is to help determine the benefits at the time of injury, particularly if they are discontinued months or even years after the injury. The form must be filed for concurrent employers, as well as the employer of injury, and must be filed even if no fringes are provided. Any benefit indicated on the form as "provided" to the injured employee must also indicate whether or not it is continued, and must have an amount in the "weekly cost" column. In the case of a 401K, the amount may be indicated as a percentage rather than a dollar amount. The amount entered should represent the employer's cost of the benefit as of the date of injury. Amounts reported are subject to verification by the employee and his/her representative, and documentation must be provided upon request.

Workers' Compensation Training Perspectives

Newsletter from the Office of Monitoring, Audit and Enforcement

Maine Workers' Compensation Board

October 2014

Volume 1, Number 2



Paul H. Sighinolfi
Executive Director/Chair

Office of Monitoring,
Audit and Enforcement

Maine Workers'
Compensation Board

27 State House Station
Augusta, Maine 04333

Contacts:

Gordon Davis
Director of Audits
Training Coordinator
(207) 287-6327

E-mail
Gordon.Davis@Maine.Gov

Anne Poulin
Secretary Associate
(207) 287-7067

E-mail
Anne.Poulin@Maine.Gov

Website:
www.maine.gov/wcb/

The Board welcomes your feedback, suggestions, and other input regarding this publication or its training program. Please email Gordon Davis with your comments.

From the (e)Mail Bag – Questions from Adjusters

Q: Twelve weeks prior to the injury, the employee made a permanent, voluntary change from a 40 hour work week to a different position with a 24 hour work week and significantly lower earnings. Can I show just those 12 weeks on the wage statement?

A: You would still show all 52 weeks on the wage statement. However, since AWW represents a regular work week at the time of injury, you need only use those 12 weeks in the AWW calculation. Note your calculation method in the comments section.

Q: I know we must match the employee's pay cycle when calculating partial benefits. Must we also pay on his/her regular pay day?

A: Payments must be made weekly (every 7 days), but need not be paid on the employee's regular pay day (Section 205).

Q: While out on TPD, the injured employee also took some sick pay and vacation pay. Can I treat these amounts as earnings in calculating benefits due?

A: The employee's compensation for incapacity is subject to an offset for the sick pay received. However, a September 2013 hearing officer decision ruled that the employee is entitled to holiday and vacation pay regardless of disability. Thus, his holiday and vacation pay is not subject to offset.

Q: An employee with a pre-existing heart condition had a heart attack at work and died. No claim for benefits has been made by the family. Need I file anything?

A: Per the Board's general counsel, an employee's death at work is synonymous with a claim for benefits. A WCB-1 First Report of Injury, and either a WCB-3 Memorandum of Payment or a WCB-9 Notice of Controversy is required.

Q: The injured employee missed work for exactly 14 days. Need I pay for the 7-day waiting period?

A: No. The waiting period must be paid if the incapacity continues for more than 14 days (Section 204).

Q: I filed a mandatory MOP due to a 14 day violation, and filed a NOC denying the claim with payment through the date of denial and payment. Employee never returned to work or pursued the denial. Must I file a WCB-4 Discontinuance to close the MOP?

A: No, closure is not required for MOPs issued pursuant to Rule 1.1.3.

Newly Adopted Rules, Updated Forms Manual, Inpatient Fee Schedule

The Board recently completed a repeal and replace of Board rules Chapters 1-4, 6-19, and 23. These rules became effective on August 18, 2014. The changes were largely editorial in nature, to eliminate inconsistencies between the Rules and the Act. The Board also revised its Forms Manual and Forms Manual Appendices effective August 7, 2014. Lastly, the Board has updated its inpatient facility fee schedule for dates of discharge on or after October 1, 2014. The remainder of the annual update (professional and outpatient facility fees) will be posted as soon as it becomes available for dates of service on or after January 1, 2015.

The Board Rules, Forms Manual and Inpatient Fee Schedule are all available on the Board's website www.maine.gov/wcb/.